IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRUCE PALMER,

Plaintiff,

v. C.A. NO.

RENT-A-CENTER, INC.

Defendant, JURY TRIAL DEMANDED

COMPLAINT

AND NOW comes the Plaintiff, BRUCE PALMER, and files this Complaint against RENT-A-CENTER, INC averring as follows:

JURISDICTION

1. This action is brought under and jurisdiction lies with the Federal Court pursuant to the *Americans with Disabilities Act, as amended, 42 U.S.C.A §12133.*

2. Rent-A-Center employs more than 15 people and is therefore an employer within the meaning of the *Americans with Disabilities Act, as amended*, *42 U.S.C.A* §12111. ("ADA").

3. This action is also brought under and jurisdiction lies with the Federal Court pursuant to the *Family Medical Leave Act* ["FMLA"], 29 U.S.C. §2611(2)(A).

4. Rent-A-Center, Inc. is an employer within the meaning of the *Family Medical Leave Act*, 29 U.S.C. § 2611(4) in that it employs more than 50 people.

5. Venue is proper, as all acts relevant to this lawsuit occurred within the Commonwealth of Pennsylvania.

6. All conditions precedent to jurisdiction under the *Americans with Disabilities Act* have ben met as follows:

(a) On July 14, 2015 the Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission alleging that Defendant had violated the *Americans With Disabilities Act* by failing to accommodate his disability at the work place by, instead of accommodating him, they fired him.

(b) Plaintiff was fired on January 10, 2015 and the Charge filed with the Federal Equal Employment Opportunity Commission ("EEOC") was filed within 300 days from the act of discrimination.

(c) After more than 180 days passed since the Plaintiff filed his Charge with the United States Equal Employment Opportunity Commission, the Plaintiff then requested and received from the EEOC a Right to Sue letter dated December 21, 2016.

(d) The Plaintiff has filed this action with the United States District Court for the Western District of Pennsylvania within 90 days of receipt of the Right to Sue letter.

FACTS

7. Plaintiff, Bruce Palmer, is an adult individual residing at 207 Thompson Street, Latrobe, PA 15650.

8. Rent-A-Center, Inc is a retail business engaged in interstate commerce employing over 50 employees located at 5501 Headquarters Drive, Plano, TX 75402.

9. At all times material hereto Rent-A-Center was acting through its authorized employees acting within the course and scope of their employment.

10. Plaintiff was an employee of the Rent-A-Center store located at 1038 Latrobe Thirty Plaza, Route 30, Suite 312, Latrobe, PA 15650 from November 15, 2011 until January 10, 2015, when he was dismissed.

11. While working for Rent-A-Center, Plaintiff suffered from an Anxiety Disorder which was of such severity so as to meet the definition of "disability" under the *Americans with Disabilities Act*, as amended, 42 U.S.C. § 12102.

12. The Plaintiff told managers Dennis Fabrizi and Robert Bishop at his job interview he suffered from an Anxiety Disorder that may cause absences.

13. Throughout the time the Plaintiff worked at Rent-A-Center the Plaintiff repeatedly told management he had an Anxiety Disorder.

14. The Plaintiff had made requests to management for intermittent leave, and management responded by telling the Plaintiff that intermittent leave was not available to Rent-A-Center employees.

15. Rent-A-Center received written doctor confirmations that the Plaintiff suffered from an Anxiety Disorder in doctor notes dated August of 2014 and again in another doctor note dated September 24, 2014.

16. Further, Rent-A-Center management received a doctor's note dated October 11, 2014 that reads:

> Mr. Palmer is under treatment for an Anxiety Disorder.
> He was unable to work on October 10, 2014 because of
> an exacerbation of symptoms.

17. Rent-A-Center was aware that Plaintiff would miss work as a result of his Anxiety Disorder.

18. Although Plaintiff would, on occassion, need to absent himself from work for brief periods of time to accommodate his anxiety condition, Plaintiff was otherwise able to perform the essential functions of his job.

19. When Rent-A-Center management spoke to the Plaintiff regarding Plaintiff's absences, Plaintiff would reiterate that the absences were due to his Anxiety Disorder.

20. Rent-A-Center managment never counseled the Plaintiff regarding late arrivals and when Rent-A-Center fired the Plaintiff, management said it was due to absences, and said nothing about late arrivals.

21. In response to Plaintiff's statements that his absences were due to flare ups of his Anxiety Disorder, managments' only suggested resolution was for the Plaintiff to seek an extended continious leave-of-absence without pay.

22. An extended continious leave-of-absence was not necessary because Plaintiff's Anxiety Condition was managable for extended periods of time, but was subject to flare ups and become disabling from as short a period of time as a half day to a few days.

23. Further, Plaintiff did not wish to suffer the finanacial harship which an extended period of leave without pay would entail.

24. At no point did any manager advise the Plaintiff that the Plaintiff had the right to seek intermittent FMLA Leave.

25. On January 5, 2015 the Plaintiff missed work due to his Anxiety Disorder.

26. Plaintiff missed work on January 9, 2015 due to weather conditions.

27. Rent-A-Center fired Plaintiff on January 10, 2015 for excessive absences, when the absences Rent-A-Center relied upon to justify the firing were due to Plaintiff's Anxiety Disorder.

28. Rent-A-Center management, at the time of Plaintiff's discharge, admitted that Plaintiff's missing work due to his Anxiety Condition was the basis for his discharge.

29. Only after the fact has Rent-A-Center added late arrivals as a basis for the firing the Plaintiff , when, at not time, were late arrivals discussed with the Plaintiff while he worked for Rent-A-Center or raised as a basis for dismissal with the Plaintiff at the time of the firing.

30. Late arrivals was not the reason the Plaintiff was fired and any claim that late arrivals were the reson for firng the Plaintiff is a pretext..

COUNT I - FAILURE TO ACCOMMODATE

31. Paragraphs 1 through 30 above are hereby incorporated by reference.

32. Rent-A-Center violated the *Americans with Disabilities Act* ADA by failing to engage in the interactive process through which the employer and employee meet and attempt to formulate a reasonable plan for accommodating the Plaintiff's disability.

33. Rent-A-Center violated the *Americans with Disabilities Act* by failing to provide Plaintiff with the accommodation of allowing Plaintiff to occasionally miss work as a result of his anxiety condition.

34. Rent-A-Center violated the *Americans with Disabilities Act* by firing Plaintiff for missing work as a result of his Anxiety Disorder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

A. Judgment in his favor and against Rent-A-Center for back pay and loss of employment benefits from January 10, 2015 plus interest.

B. Judgment in his favor and against Rent-A-Center for front pay and loss of future employment benefits.

C. An award of compensatory damages in an amount to be determined at trial.

D. An award of reasonable attorney's fees, including litigation expenses and costs.

E. An award for humiliation and emotional distress.

F. An award of punitive damages.

H. Such other relief as the Court deems just and proper.

COUNT II - FAMILY MEDICAL LEAVE ACT

35. Paragraphs 1 through 34 are herby incorporated by reference.

36. Rent-A-Center willfully violated the *Family Medical Leave Act* by intentionally refusing to grant to the Plaintiff intermittent FMLA Leave.

37. As a direct result of Rent-A-Center willfully refusing to grant the Plaintiff intermittent FMLA Leave, Plaintiff lost his job on January 10, 2015.

38. Rent-A-Center willfully violated the *Family Medical Leave Act* by intentionally firing the Plaintiff for missing days off work that should have been treated as authorized FMLA absences.

RELIEF REQUESTED

39. Plaintiff prays the Court grant him the following relief:

a. Judgment in his favor and against Defendant for double back pay, plus interest;

b. Judgment in his favor and against Defendant for the economic loss the Plaintiff has suffered, and will suffer in the future;

c. An award of reasonable attorney's fees, including litigation expenses and costs;

f. Such other relief as the Court deems just and proper.

Date : 3- 21-17

By: s/John Newborg

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